



**DEVELOPMENT  
SERVICES  
DEPARTMENT**

# The City of Morgantown

389 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505  
(304) 284-7431 TDD (304) 284-7512  
FAX (304) 284-7534 [www.morgantown.com](http://www.morgantown.com)

August 21, 2014

Delores Mashuda  
316 Tyrone Road  
Morgantown, WV 26508

**RE: V14-32 through V14-35 / Delores Mashuda / 1889 Sturgiss Street  
Tax Map 33, Parcel 36**

Dear Ms. Mashuda:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced variance petitions relating to the proposed development at 1889 Sturgiss Street. The decisions are as follows:

**Board of Zoning Appeals, August 20, 2014:**

**V14-32** – Variance petition as it relates to number of principal buildings on a lot

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted variance relief from Article 1363.04(A) so that two (2) principal buildings may be developed on Parcel 36 of Tax Map 33 as requested without conditions.

**V14-33** – Variance petition as it relates to setback standards

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted a 1.4-foot variance from the minimum front setback standard of 10 feet and a 32.8-foot variance from the minimum rear setback standard set forth in Article 1341.04 for the PRO District as requested without conditions.

**V14-34** – Variance petition as it relates to performance standards

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted variance relief from the wall cladding material standards set forth in Article 1341.07(C)(1) for the PRO District be granted so that ornamental split-faced concrete block may be used or cement block that emulates cast concrete as requested without conditions.

**V14-35** – Variance petition as it relates to development standards

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted variance relief from Article 1347.07(l) with the condition that a sidewalk with a minimum width of six (6) feet must be constructed to the satisfaction of the City Engineer within the Sturgiss Avenue right-of-way connecting the two parking areas on either side of the proposed building and include any accessibility provisions as determined by the City Engineer.

These decisions may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note that building permits must be issued prior to the commencement of work for which the variance approvals were granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development's planning and permitting needs.

Respectfully,

Stacy Hollar  
Executive Secretary  
shollar@cityofmorgantown.org

## **ADDENDUM A**

### **Approved Findings of Fact**

#### **V14-32 – Variance relief as it relates to number of principal buildings on a lot.**

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Given the unique geometry of the parcel and the development pattern of the surrounding built environment, permitting the construction of two (2) principal buildings on the subject realty should not manifest harm to public interest, the public realm, or the rights of adjoining property owners.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

Subdividing the already oddly shaped and very narrow realty so that each principal structure is located on separate parcels would increase the extent of parcels' nonconformity with the related Planning and Zoning Code provisions.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The realty is oddly shaped, very narrow, and situated between two public streets leaving no prospect to subdivide the property in conformity to related Planning and Zoning Code provisions.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Granting the variance will permit the development of a small commercial space that will include adequate parking.

#### **V14-33 – Variance relief as it relates to setback standards.**

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Given the unique geometry of the parcel and the development pattern of the surrounding built environment, permitting encroachment into the minimum front and rear setbacks should not manifest harm to public interest, the public realm, or the rights of adjoining property owners.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The combined minimum front and rear setback standards equal fifty (50) feet while the depth of the parcel at the narrowest point where the building is proposed is approximately 39.8 feet.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The depth of the parcel is less than the combined minimum front and rear setback requirements.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Variance relief from the minimum front and rear setbacks will permit the development of a small commercial space given the geometry and depth of the subject realty.

**V14-34 – Variance relief as it relates to performance standards (split face block).**

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The use of split face block should complement the adjoining 1950's "ESSO" structure that is located on the subject realty and should not manifest harm to public interest, the public realm, or the rights of adjoining property owners.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The petitioner seeks to develop the small commercial building in a design manner that should further restoration and investment efforts of creating a 1950's era site.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The use of split face block should complement the adjoining 1950's "ESSO" building over the use of wood, stone, brick, marble, and/or cast concrete.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The petitioner has made a significant investment in creating the nostalgic look of the 1950's "ESSO" building and seeks to further these efforts by utilizing complementary split face block.

**V14-35 - Variance relief as it relates to development standards (sidewalk).**

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

There does not appear to be sidewalks on the east side of Sturgiss Avenue and the area of the 1950's "ESSO" building currently has a long paved driveway. Developing a sidewalk connecting the proposed parking spaces flanking the proposed building will increase the lineal distance pedestrians may safely walk along the petitioner's Sturgiss Avenue frontage.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

No sidewalks exist on the east side of Sturgiss Avenue. However, the development of a sidewalk connecting the proposed parking spaces flanking the proposed building will increase the lineal distance pedestrians may safely walk along the petitioner's Sturgiss Avenue frontage given the existing paved area along the 1950's "ESSO" building's frontage.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Developing a sidewalk that will connect the proposed parking spaces flanking the proposed building will increase the lineal distance along Sturgiss Avenue where pedestrians may safely walk.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

There is approximately 170 feet of paved surface for pedestrians to safely walk along the 1950's "ESSO" building's frontage, which will be increased by additional asphalt parking and concrete sidewalk connecting the proposed parking spaces flanking the proposed building.